

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:21-cv-00025-D

DANIEL MCCARTHY; and PHILIP  
SCALZO,

*Plaintiffs,*

v.

ACTIVE ENERGY GROUP, PLC;  
LUMBERTON ENERGY HOLDINGS  
LLC; ADVANCED BIOMASS  
SOLUTIONS, PLC; and ACTIVE  
ENERGY RENEWABLE POWER, LLC,

*Defendants.*

**CONSENT MOTION TO REVISE SCHEDULING  
ORDER**

NOW COME Plaintiffs DANIEL MCCARTHY and PHILIP SCALZO (“Plaintiffs”), by and through counsel, and hereby move for an Order, pursuant to Local Rule 6.1, revising the existing Scheduling Order in this matter. In support of the motion, Plaintiffs state as follows:

1. This case was filed on February 10, 2021. It concerns claims for breach of contract, the Utah Payment of Wages Act (Utah Code § 34-28-1, et. seq.), the Utah Minimum Wage Act (Utah Code § 34-40-101, et. seq.), the Fair Labor Standards Act (29 U.S.C. § 215), and Utah Code § 34-27-1.

2. The parties and witnesses in this matter reside across different states and countries including North Carolina, Utah, Malaysia and England.

3. On February 22, 2022, the Court entered a Scheduling Order establishing case deadlines.

4. The parties have mutually agreed to a mediator of Scott C. Hart of Sumrell Sugg, P.A.

5. The parties have each conducted and responded to written discovery.

6. While each party may require additional discovery, the parties mutually desire and agree it is in the best interest of all parties and the judicial resources of the Court to conduct the mediation at this stage, before conducting further discovery and depositions.

7. The parties mutually desire and agree it is in the best interest of all parties and the judicial resources of the Court to revise the Scheduling Order to allow for time to schedule the mediation with Mr. Hart at the earliest possible convenience, while leaving sufficient time thereafter to conduct further discovery and depositions in the event the mediation reaches an impasse and to reconvene the mediation thereafter should the parties wish to do so.

8. On information and belief, as it stands today, the parties will not be able to schedule mediation services of Scott C. Hart until February 2023.

9. Under the current Scheduling Order, the discovery completion deadline is February 17, 2023; therefore, it will not allow sufficient time for the mutually desirable and agreed-upon schedule for proceeding as described above.

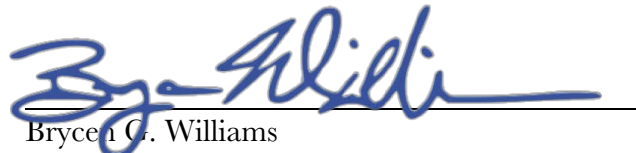
10. With the agreement and consent of all parties, the Plaintiffs request to reschedule the outstanding deadlines in the Scheduling Order for 120 days past their current date as stated in the accompanying proposed order.

11. Counsel for all parties consent to this motion.

WHEREFORE, Plaintiffs respectfully request that this Court enter a revised scheduling order extending the case timeline by approximately 120 days in accordance with the Proposed Scheduling Order filed concurrently with this Motion.

This date, Thursday, November 17, 2022.

**Williams & Ray, PLLC:**  
*Attorneys for Plaintiffs*



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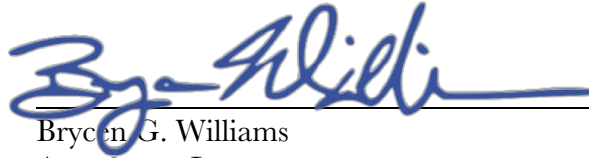
Email: [bw@williamsray.com](mailto:bw@williamsray.com)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document has this day been duly served on all counsel of record by filing it with the Clerk of Court using the CM/ECF system.

**Williams & Ray, PLLC:**

*Attorneys for Plaintiffs*



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